



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0245]

RIN 1625-AA00

Safety Zone; Inbound Transit of M/V TEAL, Savannah River;  
Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary moving safety zone around the M/V TEAL during its inbound transit on the Savannah River to the Georgia Ports Authority, Garden City Terminal Container Berth 8 (CB8). This safety zone facilitates the safe transit and offload of four oversized ship to shore (STS) cranes. The moving safety zone will transition to a temporary fixed safety zone when the M/V TEAL moors to CB8. This regulation is necessary to protect life and property on the navigable waters of the Savannah River due to the hazards associated with the transport of these oversized cranes and offloading operations. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

DATES: This rule will be enforced with actual notice from 5 a.m. on June 5, 2013, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule is effective in the Code of Federal Regulations from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 7:30 p.m. on June 24, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0245. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Chief Petty Officer Clayton P. Rennie, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone (912) 652-4353 ext 200, e-mail [Clayton.P.Rennie@uscg.mil](mailto:Clayton.P.Rennie@uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

## Table of Acronyms

COTP	Captain of the Port
CB8	Container Berth 8
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
STS	Ship to Shore

### A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive notice of the transit until there was insufficient time remaining to undertake notice and comment. Publishing an NPRM and delaying its effective date would be impracticable because immediate action is needed to protect the M/V TEAL and other vessels and mariners from the hazards associated with the transit and offloading operations of four STS cranes to CB8.

Under 5 U.S.C. 553(d)(3), for the same reasons as above, the Coast Guard finds that good cause exists for making this rule

effective less than 30 days after publication in the Federal Register. Delaying the effective date would be impracticable and contrary to the public interest.

#### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The Coast Guard is establishing this temporary moving safety zone to facilitate the safe transit of the M/V TEAL and four STS cranes on the Savannah River. The large STS cranes pose a danger to other vessels that may meet or attempt to overtake the M/V TEAL in the narrow waterway of the Savannah River.

The purpose of the rule is to ensure the safety of life and vessels on a navigable waterway of the United States during the M/V TEAL transit and operations.

#### C. Discussion of the Final Rule

The moving safety zone will cover all waters of the Savannah River one nautical mile ahead and astern of the M/V TEAL. During the vessel's inbound transit, no other vessel may meet, pass, or overtake the M/V TEAL, unless authorized by the COTP Savannah or a designated representative.

The moving safety zone will become a fixed safety zone when the M/V TEAL moors to CB8 at approximate position 32°08.23' N, 81°08.52' W. The fixed safety zone will extend over the water 500 yards around the M/V TEAL. No person or vessel will be allowed to transit the safety zone during crane offloading operations, unless authorized by the COTP Savannah or a designated representative.

Entry into the safety zone is prohibited for all vessels unless specifically authorized by the COTP Savannah or a designated representative. U.S. Coast Guard assets or designated representatives will enforce this safety zone, and coordinate vessel movements into the zone when safe to minimize the zone's impact on vessel movements. Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zones may contact the Captain of the Port Savannah by telephone at (912)652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative. The Coast Guard will provide notice of the safety zones by Broadcast Notice to Mariners, and on-scene designated representatives.

Due to fluctuations in the M/V TEAL's transit schedule, the time of arrival and 14 to 16 day duration needed to unload the cranes are based upon the best available information known at the time this rule was drafted. Therefore, this rule is effective from 5 a.m. (EST) on June 5, 2013 until 7 p.m. (EST) on June 24, 2013, however it will only be enforced upon the commencement of the M/V TEAL's inbound transit and remain in effect until all cranes have been offloaded. The COTP Savannah or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for this safety zone.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: this safety zone will only be enforced during the in-bound transit of the M/V TEAL on the Savannah River and while the M/V TEAL is moored at CB8. Once all STS cranes have been offloaded from the M/V TEAL the safety zone will be terminated. The transit of the M/V TEAL is expected to take 4 to 6 hours.

The Coast Guard has notified the Georgia Ports Authority and Savannah Pilots Association of the needs, conditions, and effective dates and times of the safety zone so that they may schedule arriving and departing vessels that may be affected by this safety zone to minimize shipping delays. The presence of moored vessels is not expected to impede the safe in-bound transit of the M/V TEAL, and sufficient channel width is anticipated while the M/V TEAL is moored so that other vessels may transit through the area. Additionally, there are only two waterfront facilities upriver of CB8 and there are no known vessels scheduled to moor at these facilities while this regulation is in effect.

Notifications of the enforcement periods of this safety zone will be made to the marine community through broadcast notice to mariners. Representatives of the COTP will be on-scene to coordinate the movements of vessels seeking to enter the safety zone. These representatives will authorize vessel transits into

the zone to the maximum safely allowable during the M/V TEAL's transit.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Savannah River while M/V TEAL is transiting in-bound on the Savannah River and while moored at CB8. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The COTP Savannah may consider granting vessels permission to enter into the moving safety zone if conditions allow for such transit to be conducted safely, (2) all vessels may transit through the fixed safety zone when crane offloading operations are not in progress, and (3) the



Coast Guard will issue a broadcast notice to mariners informing the public of the safety zone.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

## 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

## 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the creation of a temporary safety zone. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard

amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.t07-0245 to read as follows:

§ 165.t07-0245 Safety Zone; Inbound transit of M/V TEAL Savannah River, Savannah, GA.

(a) Regulated Area. The following areas are safety zones:

(1) Moving Safety Zone. The moving safety zone will cover all waters of the Savannah River one nautical mile ahead and astern of the M/V TEAL.

(2) Fixed Safety Zone. All waters of the Savannah River within 500 yards in all directions around the M/V TEAL while moored at approximate position 32°08.23' N, 81°08.52' W.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Savannah in the enforcement of the

regulated area.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Savannah or a designated representative.

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zones may contact the Captain of the Port Savannah by telephone at (912)652-4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners and on-scene designated

representatives.

(e) Effective period. This rule is effective from 5 a.m. on June 5, 2013 until 7 p.m. on June 24, 2013.

Dated: May 20, 2013

J. B. Loring

Commander, U.S. Coast Guard

Captain of the Port Savannah

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Date: 06/18/2013]